

# Make it Make Sense

EXPLAINING A VICTIM'S COUNTERINTUITIVE BEHAVIOR

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# CREDIBILITY

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## Counterintuitive Behaviors

- ☐ A sexual assault victim who doesn't resist
- ☐ The victim of brutal crime appears unbothered by the attack
- ☐ A child victim of sexual abuse doesn't cry
- ☐ A domestic violence victim recants her story and supports her batterer at trial
- ☐ Your gang violence witness is difficult and angry
- ☐ The victim of a crime can't recall key details

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## Counterintuitive Behavior ≠ Lack of Credibility

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# TRAUMA

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## Objectives

- Understand the impact of trauma on victims of crime
- Provide an overview of the neurobiology of trauma
- Strategies for incorporating a trauma informed approach into a case

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## Understanding Trauma

IF I WOULD KNOW THEN WHAT I KNOW NOW...

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## What is Trauma?

- 4An emotional response to a terrible event
- 4Psychological impacts
- 4Physiological effects

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## What is Trauma?

### Three types of trauma:

- Acute
  - from a single incident.
- Chronic
  - repeated and prolonged
- Complex trauma
  - exposure to varied and multiple traumatic events, often of an invasive, interpersonal nature.



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## The Neurobiology of Trauma

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## The Neurobiology of Trauma

**Amygdala** - The brain's emotional computer and alarm system

**Hippocampus** - Brain's storage for our most recent conscious memories

**Thalamus** - Translates sights, sounds, smells into the language of the brain

**Prefrontal cortex** - Where information is used to make decisions about cognitive and emotional responses



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## The Neurobiology of Trauma

□ The **HPA** AXIS:

□ Hypothalamus

□ Pituitary Gland

□ Adrenal

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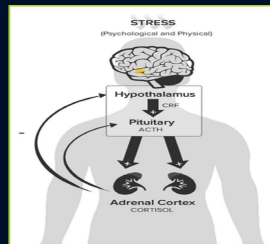
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## The Neurobiology of Trauma

□ The HPA Axis connects three structures:

□ The hypothalamus acts on the pituitary gland

□ The pituitary gland acts on the adrenal glands



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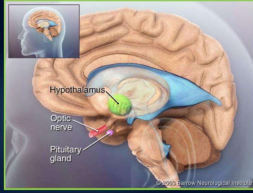
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## The Neurobiology of Trauma



- The hypothalamus is the "Grand Central Station" of the brain
- Communicates with other structures in the brain, including the pituitary gland
- The hypothalamus stimulates hormone release from the pituitary gland

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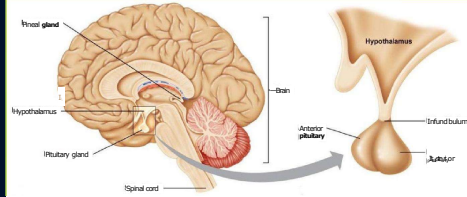
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## The Neurobiology of Trauma

The hypothalamus is the "Grand Central Station" of the brain

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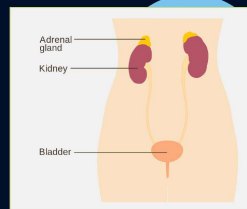
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## The Neurobiology of Trauma

- Adrenal Glands
- Hormones released from the pituitary gland stimulates hormone release from the adrenal gland



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## The Neurobiology of Trauma

- Four main hormones are released during a traumatic event
- Catecholamine
  - Fight, flight or freeze- "Tonic Immobility"
- Cortisol
  - Regulates energy to fight or flee
- Opiates
  - Pain reduction
- Oxytocin
  - "Feel good" Positive feelings



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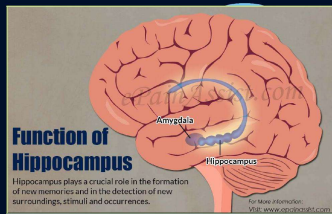
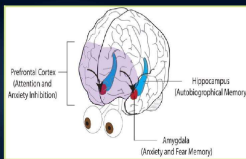
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## The Neurobiology of Trauma

- Hippocampus and Amygdala



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## The Neurobiology of Trauma

- The Hippocampus: information into memories
- Establishes long term memory
- Encodes and consolidates information
- Takes sensory information coming in and organizes it
- Consolidates and sorts information

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## The Neurobiology of Trauma

- ☐ The amygdala processes emotional information
- ☐ Traumatic events are more difficult to handle because of the emotional response
- ☐ The hippocampus and amygdala are very sensitive to the hormone soup, making it harder to process, encode, and consolidate information and memories surrounding a traumatic event

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## General Effects of Trauma

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| <ul style="list-style-type: none"> <li><input type="checkbox"/> Immediate Term :</li> <li><input type="checkbox"/> Shock</li> <li><input type="checkbox"/> Denial</li> <li><input type="checkbox"/> Dissociation</li> </ul> | <ul style="list-style-type: none"> <li><input type="checkbox"/> Longer-Term</li> <li><input type="checkbox"/> Physical Symptoms</li> <li><input type="checkbox"/> Interpersonal Problems</li> <li><input type="checkbox"/> Memory</li> <li><input type="checkbox"/> Feelings of worthlessness</li> </ul> |
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## The Impact of Trauma on Victims

- ☐ Flat Affect-
  - ☐ A lack of reaction to emotional stimuli,
  - ☐ A monotone voice
  - ☐ Lack of expression in the face.
- ☐ Fragmented & disorganized memory



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## The Impact of Trauma on Victims

- ☐ Flashbacks
- ☐ Volatile emotions
- ☐ The more exposure, the more trauma
- ☐ Coping mechanisms may be good or bad



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## The Impact of Trauma on Victims

- ☐ Victim may feel degraded or humiliated by the assault
- ☐ Victim may experience flashbacks
- ☐ The shock and strain of trauma never go away



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## Trauma Informed Prosecution



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## What are your expectations about victims?

- ☐ Check yourself
  - ☐ Do I have any personal bias?
  - ☐ Do I have a good victim?
  - ☐ Are they credible?
- ☐ **You are your first juror**
  - ☐ **Will you be fair to your victim?**



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## Trauma Informed Prosecution

### Trauma-informed Care for Victims

- Safety
- Trustworthiness
- Choice
- Collaboration
- Empowerment

Summary from Harris, M. & Falter, R. (2001). Using trauma theory to design service systems. New directions in mental health services, Jossey-Bass, 89, Spring. <https://www.josseybass.com/college/catalog/2001/new-directions-in-mental-health-services> captured 3/26/2020



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## Trauma Informed Prosecution

- 4Name It
- 4Frame It
- 4Claim It



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## Trauma Informed Prosecution

- ☐ Understand your victim
- ☐ Identify their needs
- ☐ Create a plan
- ☐ Personal
- ☐ Legal
- ☐ al



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## Name It

- ☐ Identify Counterintuitive Behaviors
  - ☐ Witness statements
  - ☐ Police report
  - ☐ Medical records
  - ☐ Personal observations
  - ☐ Victim interviews



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## Name It

- ☐ What behaviors should you expect to see?
  - ☐ Domestic Violence
    - ☐ Coping mechanisms
      - ☐ Normalizing violence
      - ☐ Recanting/remaining
      - ☐ Minimizing
      - ☐ Self-blame



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## Name it

☐ What behaviors should you expect to see?

- ☐ Sexual Assault/Human Trafficking
  - ☐ Flat affect
  - ☐ Failure to report
  - ☐ Passive behavior
  - ☐ Laughing
  - ☐ Confusion

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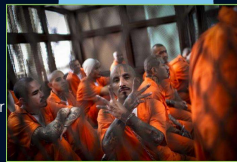
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## Name It

☐ What behaviors should you expect to see?

☐ Non-Intimate Partner Violence

- ☐ Very Violent Crimes
  - ☐ Armed Robbery
  - ☐ Home Invasion
    - ☐ Inability to recount in a linear manner
- ☐ Gang cases
  - ☐ Anger, aggression



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## Name It

- ☐ Disclosure happens over time
- ☐ Time and patience needed to establish trust
- ☐ Victim advocates can provide support and services to victim

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## Frame It

- ☐ How do you best present your victim's story?
- ☐ You
  - ☐ Understanding
  - ☐ Interaction with victims
- ☐ Prosecutors set the tone for victim credibility

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## Frame It

- ☐ Create a plan for the victim in court
  - ☐ Work with a victim advocate
  - ☐ What triggers exist?
  - ☐ What fears?
  - ☐ What physical changes needed?
  - ☐ What legal issues will arise?



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## Frame It

- ☐ Judge
  - ☐ Pre trial motions
    - ☐ Motions in Limine
    - ☐ Character
    - ☐ Irrelevant evidence
  - ☐ Rape Shield
  - ☐ Other Acts
- ☐ Court personnel
  - ☐ Court Visits

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## Frame it

### Jury

#### 4Vair Dire

- 4Provide an accurate context for the jury
- 4Begin to break down myths about victims



Rosenqvist, Amy A. "She Didn't Scream So She Must Have Wanted It: Explaining Counterintuitive Victim Behavior." The National Center for Prosecution of Violence Against Women Volume 4, Number 2, July 2014. <https://www.ncjv.org/publications/ncjv-vol4-no2-july-2014/she-didnt-scream-so-she-must-have-wanted-it-explaining-counterintuitive-victim-behavior/> (Captured Jan. 17, 2020)

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## Frame It

### Regular folks



Aunt Flossie

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## Frame it

- Corroborate Everything
- Victims will recant or make inconsistent statements
- Why inconsistency - mendacity



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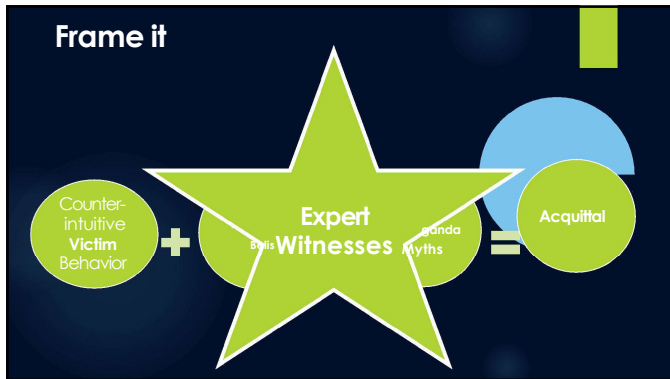
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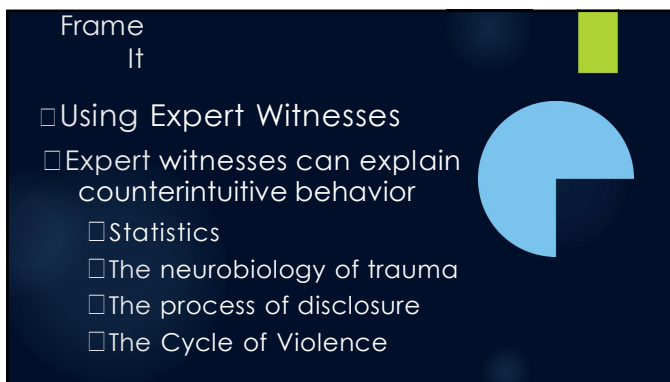
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## Claim It

- The defense will use counterintuitive behavior to attack victim's credibility
- Address behavior head on
  - Prepare jury by discussing it in voir dire and opening
  - Incorporate it into the theme of the case

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## Claim It

- Use your victim's strength in coming forward to inspire the jury
- Evidence of trauma can help to jury see what the victim has lost due to crime
- Show how coping mechanism developed as a result of trauma
- Be a fearless warrior!



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## Questions?

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